

Minutes of the March 25, 2011 Regular Council Meeting

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Serio, Carmean, Bunting, Smallwood, Langan and Weistling

Absent: Council Member Tingle was excused

President's Report

- Mayor Serio announced that work on a preliminary budget for FY12 has begun. The Budget Committee will meet in mid-April.
- A Sidewalk Workshop is scheduled for Saturday, April 2, 2011 from 1 PM to 3 PM. This is an informal meeting to get a first look at a possible plan. It will feature displays by Landmark Engineering and representatives from DelDot will be on hand. Comment sheets will be available and will be reviewed after the workshop.
- Council expects to award the trash/recycle contract in the next week or two prior to the Budget Committee meeting.
- The Fenwick Island Police Department Extra Duty Policy is complete and has been reviewed. It will be discussed at the next Special Council meeting.

Topics for Discussion and Possible Action

- 1) Chapter 160 – Auction Houses – Council Member Weistling

Council Member Weistling advised that Auction Houses were removed as an allowable use approximately 7-10 years ago as a result of illegal activities at an auction house in town. Mr. Jay Barmack, property owner of 900 Coastal Highway, has requested that he be allowed to hold auctions at this location. Building Official Pat Schuchman has met and spoken with the Town Solicitor and with representatives from other municipalities about guidelines for auction houses in their communities.

DISCUSSION

Building Official Pat Schuchman advised that she has received a request from Mr. Barmack to allow him to use his property for auctions. Town Solicitor, Mary Schrider Fox, has suggested that the Town itemize the limits of activities in respect to hours of operation, allowable activities, and merchandise to be auctioned. Mrs. Schuchman noted that the State of Delaware only requires that an auction house have a State license to operate. The Town will require a license as well. The Town Solicitor recommends that the Town of Fenwick Island require insurance but the State of Delaware does not require it. The Delaware Auctioneer's Association has guidelines for operations that do include insurance. Mr. Barmack proposes a monthly auction to be held at his property located at the former United Electric Supply Company building (900 Coastal Highway).

Mr. Jay Barmack addressed Council stating that he has contacted Liljenquist & Beckstead Jewelers to authenticate and appraise all jewelry to be auctioned. Mr. Barmack assured Council that both he and his wife will be involved daily with the operation. In response to a question from Council Member Weistling, Mr. Efrem Phillips, licensed auctioneer, advised that they will hold the auctions on Saturdays from 9:30 AM - @3:00 PM or 4:00 PM. Included will be antiques, collectibles, glassware, old toys, oriental rugs and jewelry. No merchandise will be displayed outside the building and a standardized form will be used when accepting any item for consignment.

Council Member Weistling asked Council if they want the Charter and Ordinance Committee to proceed with discussion of auction houses as an allowable use. Mayor Serio polled Council as follows:

Smallwood – Yes

Carmean – Yes, provided establishment is run correctly

Bunting – Yes, confident it will be

Serio – Yes

Weistling – Yes, provided it is handled by a professional auctioneer

Langan – Yes

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Council Member Weistling will take the matter to the Charter and Ordinance Committee on April 5, 2011 for discussion and drafting of a First Reading to Chapter 160 in order to have it ready to accommodate a June 1, 2011 opening.

Public Comment:

Dick Bowman (7 W Dagsboro St) – lives near the property and wondered where everyone will park and about traffic control. Mr. Barmack noted that he has a parking lot at the rear of his building and can make use of another vacant lot in the vicinity if needed.

2) Public Works Request to Remove Shrubs – Town Manager Abbott

Town Manager Abbott advised that some fencing along the Public Works lot has come down due to a windstorm. Public Works requests that they be allowed to relocate the shrubs that are there and replace the damaged fence with an 8' slatted chain link fence.

Motion to consider Public Works request to remove shrubs – Council Member Carmean
Second – Council Member Smallwood

DISCUSSION

Council Member Carmean advised that she is familiar with the history of the vegetation in that area. The shrubs were planted at citizen expense and labor in order to soften the view of the Public Works facility for those living along that canal. Mrs. Carmean understands the need to secure the work area but suggested that moving the fencing around the shrubs is better than removing the shrubs and erecting a new fence. In response to a question from Mayor Serio, Council Member Langan noted that this is not in the area that will be part of the construction staging area. Council Member Smallwood agreed that there must be a way to make it work without removing the shrubs. Mayor Serio suggested that Dan Heller, Public Works Supervisor, revisit the plan for alternative ideas.

Town Manager Abbott advised that moving the fence and not the bushes excludes the area being used for storing materials. Council Member Weistling noted that it is only a 3' area; the 8' fencing that will be removed in order to erect the Public Safety building could be used rather than purchase new.

VOTE: No vote was taken on this issue as Mayor Serio suggested Public Works revisit the plan for alternative ideas.

Approval of Minutes:

Motion to Approve the Minutes of February 25, 2011 Meeting - Council Member Bunting
Second: Council Member Langan

DISCUSSION – None

Vote: All in favor to Approve Minutes (6-0)
Minutes Approved

Treasurer's Report:

Council Member Bunting noted that the Town is still under budget. There will be a Budget Committee meeting on April 13, 2011 at 9:00 AM to begin review of the preliminary 2012 budget.

Motion to Accept the Treasurer's Report - Council Member Carmean
Second - Council Member Langan

DISCUSSION

Mayor Serio asked about the collection of rental tax; Building Official Schuchman advised that most revenue from rental tax is collected after the November 30 reporting period. Council Member Carmean asked if there were many delinquent property taxes. Mayor Serio noted that delinquencies are posted at Town Hall. Council Member Bunting advised that they have been turned over for collection.

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Vote: All in favor (6-0)

Treasurer's Report accepted.

Town Manager Report:

- Mr. Abbott reported that the Special Council meeting date is tentatively set for 4/5/2011 but is not yet firm. The trash contract will be discussed at this meeting.
- Trash bids have been received and Chesapeake Waste appears to be the low bid.
- Mr. Abbott has researched curbside yard waste collection alternatives and will present at a future meeting.
- There should not be any change in the trash collection fee this year.
- The Bethany Beach Volunteer Fire Company will have an open house on May 14, 2011 at the fire house in Bethany Beach. More information will be provided later.
- Lifeguard try-outs are being held this weekend.
- The beach replenishment project should commence in mid-May with rolling beach closings into June.
 - Council Member Smallwood asked if it is advisable to contact rental agencies to let them know this will be happening. Mayor Serio advised that the replenishment company will give advance notice to the Town so that we can in turn advise the rental agencies.

Department Reports:

- Building Official – Report included in meeting packet. Nothing more to add.
 - Mayor Serio advised that Town Manager Abbott and Building Official Schuchman will attend a FEMA meeting in Georgetown to review changes to the flood map.
- Public Works - Report included in meeting packet. Nothing more to add.
- Police Department - Report included in meeting packet. Nothing more to add.
 - Council Member Langan asked Chief of Police Boyden to address the status of several house fires in South Bethany. Chief Boyden advised that the State Fire Marshal has determined that the first two were accidental and the third is under investigation.

Planning Commission:

Report is in the Council packet.

Committee Reports:

- Beach Committee – No report
- Environmental Committee – Council Member Carmean advised that the committee is planning a few summer workshops that will replace the usual summer committee meetings. Three workshops are planned:
 - 6/18 – A Solar Energy Workshop with guest speaker and a panel discussion led by property owners who have had solar energy devices installed on their homes.
 - 7/9 – Marine Education, Research and Rehabilitation Institute (MERR) will have a hands-on exhibit and discussion of their work and its value to us.
 - Date TBD – A geothermal workshop.Mrs. Carmean reported that the Garden Club will have its reading program this summer and may center its reading/talks around the MERR presentation.
- Public Safety Building – Council Member Langan advised that the architect is finishing the bid documents and tentative plans have been made to advertise the bid so that they are received back in June.

Charter & Ordinance

- Proposed First Reading Chapter 160-5A Zoning (Use Regulations) – Council Member Weistling
Council Member Weistling asked that the Proposed First Reading be included in these minutes.

Motion to accept First Reading Chapter 160-5A Zoning (Use Regulations) – Council Member Weistling
Second – Council Member Langan

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DISCUSSION

Council Member Weistling advised that the Charter and Ordinance Committee has developed a definition for “Farmers Market” and that the Town Solicitor has made suggestions to further expand the definition and regulations. He asked if Council would entertain amending this proposed reading today. The intention of this zoning change is to restrict the operation of vendor stalls on vacant properties to members of the Fenwick Island Farmers Market.

Council Member Smallwood wanted to know the rules and regulations governing the Fenwick Island Farmers Market. Council Member Weistling advised that he does have a copy of the rules and regulations and that they are not very detailed but that some other markets have extensive guidelines for time of operation and products sold. Mayor Serio noted that members of the Fenwick Island Farmers Market must comply with national standards. Council Member Langan advised that members of the Fenwick Island Farmers Market are required to carry insurance and that many of the regulations benefit the Town.

Council Member Carmean questioned the First Reading as included in her meeting packet and noted that she has an alternate reading in her possession and asked if council should wait for a reading at another time. Building Official Schuchman advised that the alternate reading is a copy of an email from the Town Solicitor with her suggested changes; Council Member Weistling asked if Council would consider amending the Proposed First Reading at this meeting.

Council Member Bunting expressed his understanding that the regulations mandate that a vendor sell only those items which it has grown and/or processed itself. This would seem to prohibit the sale of late season items such as tomatoes and corn early in the market season. Council Member Weistling suggested limiting the “season” to May 1 – October 31. Council Member Bunting agreed that is a good idea but still questioned the “early season” fruits and vegetables not grown locally. Council Member Smallwood suggested looking into the Fenwick Island Farmers Market rules and regulations to see how they have addressed the issue; Mayor Serio asked if only vendors will be included or if it is possible that an individual could sell home-grown goods and thus compete with the Farmers Market. Council Member Weistling does not want the Town to take on a “flea market” atmosphere and wants to limit use of the vacant lot to those vendors who are members of the Fenwick Island Farmers Market. He suggested that the ordinance also address overnight parking in the lot and the use of motorized equipment.

In response to a question from Mayor Serio, Building Official Schuchman advised that there is a mandatory 21 day period between passage of a first reading and consideration of the second reading. Council Member Weistling suggested either using the draft with the Town Solicitor’s comments as the first reading or tabling the first reading until the Charter and Ordinance Committee can address changes on April 5, 2011. The revised first reading could be presented at the Special Council meeting on April 5, 2011.

Motion to withdraw the Proposed First Reading Chapter 160-5A Zoning (Use Regulations) – Council Member Weistling

Second – Council Member Carmean

DISCUSSION – None

Vote: All in favor (6-0)

Motion to withdraw the Proposed First Reading passed.

Old Business

- Council Member Carmean noted that she has some questions/concerns about the sidewalk proposal and the April 2, 2011 workshop. Mayor Serio reiterated that the workshop will be very informal. People will be able to ask questions and make comments/suggestion. A formal presentation will be held at a later date.
- Council Member Weistling asked the status of the Solar Energy Project/Grant. Town Manager Abbott advised that the topic will be on the Special Council agenda for April 5, 2011.

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New Business – No Action to be Taken

Council Member Smallwood announced that the Spring Beach Cleanup is scheduled for Saturday, May 21, 2011 at 9:00 AM. Meet on Dagsboro Street Beach. Mayor Serio suggested that the Town consider holding this activity more often with one cleanup during the summer. Council Member Smallwood noted that, with beach replenishment, the beach may not need to be cleaned mid-summer this year. Council Member Langan thinks it is a good idea to add a summer cleaning; Council Member Carmean added that the lifeguards will pick up debris when they go on/off shift.

Public Participation:

- Lynn Andrews (1205 Schulz Rd) – advised that she is unhappy with the number of signs in town citing the recently erected “yield” signs on Coastal Highway. Mayor Serio noted that was a DelDot project over which the Town has no control.
- Lynn Andrews continued – by saying that the Town has received a nice return on its investments. She announced the annual F.I.S.H. potluck dinner on Saturday, April 9, 2011. Lifeguard Captain Tim Ferry will speak about handicap access to the beach and other lifeguard/beach related matters.
- Dick Bowman (7 W Dagsboro St) – asked the Chief of Police to look into the traffic light as Coastal Highway and Dagsboro Street. It seems to stay red too long when trying to enter Coastal Highway. Mr. Bowman asked if Council had considered what would happen in the event of a tsunami. Town Manager Abbott advised that the Sussex County Emergency Operations Center has not addressed the issue but that Ocean City, Maryland has. Experts believe that the wave height would not exceed 8 feet and so the advice is to more up one storey rather than to evacuate.

Upcoming Events and Meetings:

- Mayor Serio announced all meetings and events.

Motion to Adjourn: Council Member Carmean

Second: Council Member Weistling

All in favor to adjourn (6-0)

Mayor Serio adjourned the meeting at 4:40PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk

In the absence of Diane Tingle, Secretary

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Proposed First Reading – March 25, 2011

Chapter 160 – Zoning

Existing:

Chapter 160-5 A (Use Regulations):

(35) Market, food (except live poultry).

Proposed:

(35) Farmers Market.

- a) Definition. Vendors selling only agricultural, horticultural, baked goods, seafood and other food items that they themselves have grown, produced or processed.*
- b) Permitted Use. Farmers Market will be permitted only on vacant lots in the Commercial Zone in Town.*
- c) Regulations.*
 - 1. Lots shall be a minimum of 100'x100' either individual or combined.*
 - 2. Vendors shall comply with all local, county, state and health laws pertaining to their operation.*
 - 3. Vendors must provide for waste and recyclable removal.*
 - 4. Operations shall be on a seasonal basis from May 1 through October 31.*
 - 5. All meat, seafood, dairy and baked products must meet the requirements of the "Rules and Regulations of the Fenwick Island Farmers Market". All vendors must be members of the "Fenwick Island Farmers Market".*